

April E-newsletter

## **Home Foreclosure Legal Aid Project News & Updates**

*Welcome New Volunteers!*

*Thank you everyone for all your hard work. Together, we're making a difference!*

### **ADVOCACY RESOURCES**

#### **Home Affordable Foreclosure Alternatives (HAFA) Program**

<http://makinghomeaffordable.gov/hafa.html>

#### **New Local Chase Homeowner Center**

Chase Bank has established a new local center to help homeowners obtain permanent loan modifications from Chase. Housing counselors and volunteer attorneys representing homeowners with Chase loans (and former WAMU loans) should first call their national hotline at 1-866-345-4676; 8:00am-9:00pm EST; Fax 1-866-931-9938 or email [hpo.chase@chase.com](mailto:hpo.chase@chase.com). Be sure to provide your client's written authorization before you contact their line. If you run into any problems, you are advised to contact: Michael Goode; AVP/Homeownership Center Manager; 1201 3rd Avenue #1600, Seattle, WA 98101; Main Phone: 206.340.6181; Direct Line: 206.340.6197; fax: 866.420.1228; Email: [michael.goode@chase.com](mailto:michael.goode@chase.com)

### **TRAINING OPPORTUNITIES**

**Redlining and Predatory Lending:** May 7, 2010; 9am-12:30; live webcast- FREE; 3 CLE credits pending approval. Go to [http://www.pli.edu/product/seminar\\_detail.asp?id=89985&t=WAHO\\_8AEM2](http://www.pli.edu/product/seminar_detail.asp?id=89985&t=WAHO_8AEM2)  
You should attend this training to learn the types of predatory mortgage lending abuses that data analysis has revealed in California, and to inspire you to consider what types of work needs to be done in this arena, and the type of data analysis that will support predatory or unfair lending claims. You should also attend to learn how practitioners are applying federal and state laws to address these kinds of abuses. While this training discusses CA state law, there are likely many parallels to WA state advocacy approaches.

### **NEWS AND ADVOCACY TIPS FROM THE PRO BONO FRONTLINES**

#### ***By Lisa Von Biela, Home Foreclosure Legal Aid Project Pro Bono Attorney***

In late March the Legal Team was called in by Parkview Services to stop a foreclosure sale scheduled for the next morning. The client very recently qualified for a HAMP modification, but the paperwork was not complete in time. The client had equity in the property, so we based our approach on the trustee's duty of good faith to avoid sacrifice of the homeowner's property. As it was late in the day, I immediately phoned the trustee, orally relayed our position, and promised a follow-up letter ASAP. The trustee was receptive, but would have to check with in-house counsel.

Lili Sotelo and I pulled comps on the property from Trulia and Redfin, plus one from a quick-acting realtor to support our claim of equity in the property. We included these printouts with the demand letter we faxed, which cited:

1. *Cox v. Helenius*, 103 Wn. 2d 383, 388; 693 P.2d 683 (1985), holding that the trustee must take reasonable and appropriate steps to avoid sacrifice of the homeowner's property under Washington law.
2. RCW 61.24.010, Section 4, which states that the "trustee or successor trustee has a duty of good faith to the borrower, beneficiary, and grantor." The letter pointed out that this duty is independent of the lender, and that if the trustee violates this duty, it may be held separately liable.

The letter referenced the comps and stated a resulting range of equity estimates. It pointed out that the sale would harm the homeowner by depriving him of this equity. The sale was postponed a week.

Lesson learned: ask for a longer postponement than you think you need. This week, the HAMP packet was complete, but the servicer had not yet reviewed it. We needed to move the sale again. This time, a Fannie Mae representative became involved, and provided us with the specific Treasury policy (cited below) that applies to postponing foreclosure sales when a HAMP application is under consideration. This time, we reiterated the prior position (duty of good faith), and added this citation. The trustee postponed the sale until 4/30/10. I believe this Treasury policy would be useful in postponing a sale even if the client does not have equity. Therefore, it could be used in a HAMP application situation, even where the sale would not deprive the homeowner of equity and the trustee's duty of good faith might not be as helpful as it was in our case.

The US Treasury policy as stated in HUD Directive 09-01 on HAMP is as follows:

"To ensure that a borrower currently at risk of foreclosure has the opportunity to apply for the HAMP, servicers should not proceed with a foreclosure sale until the borrower has been evaluated for the program and, if eligible, an offer to participate in the HAMP has been made. Servicers must use reasonable efforts to contact borrowers facing foreclosure to determine their eligibility for the HAMP, including in-person contacts at the servicer's discretion. Servicers must not conduct foreclosure sales on loans previously referred to foreclosure or refer new loans to foreclosure during the 30-day period that the borrower has to submit documents evidencing an intent to accept the Trial Period Plan offer. Except as noted herein, any foreclosure sale will be suspended for the duration of the Trial Period Plan, including any period of time between the borrower's execution of the Trial Period Plan and the Trial Period Plan effective date."

## **FORECLOSURES IN THE NEWS**

### **Finding in Foreclosure a Beginning, Not an End**

<http://www.nytimes.com/2010/03/22/us/22foreclose.html?scp=2&sq=john%20leland%20and%20foreclosure&st=cse>

### **WA State Homeowners Sue Bank of America for Failing to Permanently Modify Loans**

<http://www.dsnews.com/articles/bank-of-america-faces-suit-from-washington-homeowners-2010-03-23>  
[http://www.hagens-berman.com/BoA\\_HomeLoans.jsessionid=a\\_P5WJ1LJ3w5](http://www.hagens-berman.com/BoA_HomeLoans.jsessionid=a_P5WJ1LJ3w5)

### **Bank of America to Cut Loan Balances**

<http://www.nytimes.com/2010/03/25/business/25housing.html?hp>

### **U.S. Plans Big Expansion in Effort to Aid Homeowners**

<http://www.nytimes.com/2010/03/27/business/27modify.html?hp>

### **Fannie Bars Foreclosure Actions in the Name of MERS**

<http://www.dsnews.com/articles/fannie-bars-foreclosure-actions-in-name-of-mers-2010-04-01>

### **Home Affordable Foreclosure Alternatives (HAFA) Program is Underway**

<http://www.dsnews.com/articles/hafa-is-officially-underway-2010-04-05>

### **Ex-CEO tells Senate: WaMu got raw deal**

[http://seattletimes.nwsourc.com/html/businesstechnology/2011597352\\_wamu14.html](http://seattletimes.nwsourc.com/html/businesstechnology/2011597352_wamu14.html)

## **HOUSEKEEPING**

### Can't Find That Old E-Newsletter with Some Helpful Information?

No worries! All of our e-newsletters are archived at <http://www.mywsba.org/default.aspx?tabid=199>

### Working on a Case and Need Some Feedback or Assistance?

If you're actively volunteering with the project you should have been added to our WA Foreclosure Prevention Advocate list serve. Don't forget to use it! Experts, mentors and other volunteers are standing by to exchange ideas and advocacy strategies. Unsure if you're on this list serve? contact Aline at [alinec@wsba.org](mailto:alinec@wsba.org).

### Please Check Your Email Spam Filter!

Please make sure you are receiving email from Lili Sotelo and Colleen Mold, our Home Foreclosure Legal Aid Project legal team; their emails are [colleenm@nwjustice.org](mailto:colleenm@nwjustice.org), [lilis@nwjustice.org](mailto:lilis@nwjustice.org) and [hflap@nwjustice.org](mailto:hflap@nwjustice.org). Almost all attorneys should have gotten a chance to accept at least one case. Anyone who has not received a request for case acceptance should contact Aline at [alinec@wsba.org](mailto:alinec@wsba.org) as soon as possible.

### Really Eager to Get a Case?

Have you been really eager to get a case but feel like you haven't been quick enough on the draw when our legal team sends out volunteer opportunities? Have you been unable to handle a matter that's been offered but are still really interested in getting a case? If so, please email [hflap@nwjustice.org](mailto:hflap@nwjustice.org) and also let us know if you'd be willing to take matters in neighboring counties or statewide.

### Too Busy Right Now to Take a Case?

If you are not currently able or believe that you will not be able to accept cases through the Home Foreclosure Project for the next six months, please take a moment to let us know so that we can remove you from our volunteer list. Please contact Aline at (206) 727-8204 or [alinec@wsba.org](mailto:alinec@wsba.org). You can always rejoin us when your schedule opens up.

### **Questions, Comments and Feedback: We want to hear from you!**

Please contact Aline at [alinec@wsba.org](mailto:alinec@wsba.org) or at (206) 727-8204.

Thanks again for doing your part to put an end to the foreclosure crisis and helping Washington state homeowners!